

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>GREG L. NEMETH,</b>	:	<b>Case No. 2:21-cv-01460</b>
	:	
<b>Plaintiff,</b>	:	<b>Chief Judge Algenon L. Marbley</b>
	:	
<b>v.</b>	:	<b>Magistrate Judge Chelsey M. Vascura</b>
	:	
<b>VILLAGE OF TILTONSVILLE, <i>et al.</i>,</b>	:	
	:	
<b>Defendants.</b>	:	

**ORDER**


This matter is before the Court on the parties’ Stipulation of Dismissal as to Plaintiff’s Claims/Prayers for Punitive Damages. (ECF No. 102). The parties therein purport to move pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii) to dismiss with prejudice Plaintiff’s claims and prayers for punitive damages. These claims are also the subject of Defendants’ Joint Motion for Partial Summary Judgment on Plaintiff’s Claims/Prayers for Punitive Damages. (ECF No. 96).

There is a minor issue with the parties’ stipulation: Rule 41(a) only permits voluntary dismissal of an entire action. Fed. R. Civ. P. 41(a); *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961) (explaining that Rule 41(a) allows only for the dismissal of entire actions, not claims). As a fellow court in this district has explained, “[t]he correct procedural vehicle for removing individual ‘claims’ from a larger ‘action’ is Rule 21.” *Dix v. Atos IT Sols. & Servs., Inc.*, No. 1:18-CV-275, 2020 WL 6064646, at \*1 (S.D. Ohio Mar. 17, 2020). After all, it is Rule 21 that permits this Court to “sever any claim against a party.” Fed. R. Civ. P. 21. This Court thus construes the parties’ stipulation as a motion arising under Rule 21.

Given that all parties consent to the dismissal of Plaintiff’s claims for punitive damages, their Stipulation (ECF No. 102) is **GRANTED**. Pursuant to Federal Rule of Civil Procedure 21, Plaintiff’s claims for punitive damages are hereby **SEVERED** and **DISMISSED WITH**

**PREJUDICE.** Accordingly, Defendants' Joint Motion for Partial Summary Judgment concerning those claims is **DENIED AS MOOT.** (ECF No. 96). All remaining claims will remain pending.

**IT IS SO ORDERED.**



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**ALGENON L. MARBLEY**  
**CHIEF UNITED STATES DISTRICT JUDGE**

**DATED: May 9, 2023**